

February 6, 2006

BY ELECTRONIC FILING

The Honorable Joseph J. Farnan, Jr.
United States District Court
844 King Street
Wilmington, DE 19801

Re: Affymetrix, Inc. v. Illumina Inc., C.A. No. 04-CV-901 JJF

Dear Judge Farnan:

I write on behalf of Affymetrix to request that the Court move the date for the Markman Hearing, currently scheduled for March 8, so that the parties have time to complete discovery and meet and confer properly about the terms at issue and draft their briefs. The original March 8 date (briefs due at the end of February) was set based on a February 6, 2006 discovery cut off. That cut off has been extended by three weeks -- to February 24.

At the last hearing, when Affymetrix raised the issue of the Markman date and briefing in light of the extended discovery deadline, Your Honor stated: "If you want to do that ask me and I'll try to accommodate you." Given that there are one or more depositions set for virtually every day between now and February 23, and that there are still at least eight additional depositions that have not been scheduled, Affymetrix now seeks to take up the Court's offer.

The schedule has been so busy that the parties have not yet met and conferred about which terms of the six patents-in-suit are at issue and what their respective constructions are. To ensure that the Markman briefing and hearing proceed in an orderly fashion, Affymetrix proposes that the parties exchange lists of terms to be construed and proposed constructions on March 10 (two weeks after close of fact discovery), respond to each other's list a week later (March 17) and then meet and confer as to the issues that will have to be briefed shortly thereafter (in the week of March 20). The briefing could thus go forward in late March or early April, with the Markman hearing set at the Court's convenience. Such a schedule would not impact the trial date in this case and will ensure that the parties positions are well understood before expert reports, currently due on April 11.

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We have conferred with Illumina on this issue, but Illumina has not agreed to move the date for the Markman hearing.

Respectfully,

/s/ Maryellen Noreika (I.D. #3208)

Maryellen Noreika

cc: Peter T. Dalleo, Clerk (By Hand Delivery)
Richard K. Herrmann, Esquire (By Hand Delivery)
Marcus E. Sernel, Esquire (By Fax)